IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.989 OF 2007
IN
FIRST APPEAL NO.418 OF 2007

Zubeda Qureshi ...Applicant
vs.
Municipal Corporation of Greater Bombay & Ors. ...Respondents

Mr.V.S.Kapse for the Applicant
Mr.J.J.Xavier for the Respondent No.1.

CORAM: A.S.OKA,J.
DATE : FEBRUARY 21,2007.

P.C.:

1. Heard Advocate for the Applicant and the Advocate for the Respondent No.1. Originally, the licence was granted by the first Respondent in favour of the Appellant for selling ice. By communication dated 12th July 2004, the Appellant was permitted to carry on business of selling fowl and fowl cutting (chicken business). By a letter dated 5th December 2004, the said permission granted to carry on the business was revoked. The said communication has been challenged by the Applicant by filing a suit with the Trial court which has been dismissed. The decree of dismissal of the suit has been challenged in this Appeal.

2. The learned Advocate for the Applicant submitted that all throughout the pendency of the suit, the Applicant was permitted to carry on the business of sale of fowl and fowl cutting and interim order which was operating during the pendency of the suit deserves to be continued.

3. The prayer clause (b) in this Application reads thus :

"b) Pending the hearing and final disposal of the present application, this Hon'ble Court may be pleased to allow the Applicant to carry on business of Fowl and Fowl Cutting from Gala No.13 situated in Borivali Municipal Market, Borivali (West), Mumbai 400 082."

4. As of today there is no valid permission granted by the first Respondent in favour of the Applicant to carry on the business of fowl cutting. The permission which was granted earlier has been revoked. The said order was challenged in the suit. The challenge has failed and the suit has been dismissed.

5. Granting interim relief as prayed will amount to permitting the Applicant to carry on the business of fowl cutting though there is no permission granted to the Applicant. After dismissal the suit, the said permission cannot be granted by an interim order. So far as prayer clause (a) is concerned, the Applicant has prayed for stay of operation and execution of the impugned decree. The decree is of dismissal of the suit. Hence, prayer clause (a) cannot be granted. No case is made out for grant of interim relief. Application is rejected.

6. Rejection of this Application will not preclude the Applicant from making an application to the first Respondent for grant of fresh licence/permission to carry on the business in question.

JUDGE